MINUTES of the Kick-Off Meeting and the 1st Expert Meeting

Fair-In-Debt

Hotel Habakuk, Maribor

13th - 14th February 2026

Present in person 13th to 14th February 2026, unless otherwise specified): Matej Makoter Rožmarin, Jasmina Klojčnik, Vesna Rijavec, Burkhard Hess, Marta Reqejo Isidro, Neža Pogorelčnik Vogrinc, Ester Peruffo, Alina Damian, Marie Linton, Beatricce Zuffi, Rok Dacar, Luca Prendini, Christian Wolf, Enis Robert Dibrani, Hannah Hoelzen, Denis Baghrizabehi, Bojan Muršec, Moritz Reineke, Bojana Jovin Hrastnik, Kristjan Zahrastnik, Wendy Kennett, Katja Drnovšek, Piotr Rodziewicz, Filip Dougan, Marco Dimetto, Eduard Kunštek, Iva Buljan, Marta Pertegas Sender, Eric Bylander, Fabienne Labelle, Ludovic Lauvergnat, Ruben Envall, Jerca Kramberger Škerl, Sara Tonolo, Jesus Borez Lazo, Boštjan Kežmah, Tjaša Ivanc, Andrej Ekart, Urška Kežmah, Aleš Galič, Marius Cocou Mensah, Matjaž Trstenjak, Maja Ekart.

Present online (14th February 2026): Rok Hrustel, Sergio De Mello E Lievore, Demetra Loizou, Lisa Elisabeth Strouken, Nevi Agapiou.

Day 1 (13th February 2026)

<u>Agenda for the day:</u>

1. Registration and first working meeting (introduction to the project; its objectives, goals, expected impact, discussion) (17-19.00)
2. 20.00 Dinner - Social event, networking of partners in an informal setting at the Habakuk Hotel in Maribor

Day 2 (14th February 2026)

<u>Agenda for the day:</u>

1. 9.00 – 10.45 Opening address and Keynote speeches
2. 11.00-12.30 Round table of project Fair-In-Debt partners' introductory presentations regarding the project topic and expectations (project baseline)
3. 12.30-13.30 Presentation of the project management, workplan, milestones, and deliverables, and discussion
4. 14.00 Traveling with the cable car from the front of the hotel Habakuk to the top of Pohorje, where the expert meeting will be continued
5. 14.30-15.30 Lunch
6. 15.30-18.00 Working session (discussion on research questions, drafting of research questionnaire, expected impact, specific deliverables in future meetings).

Item 1: Opening address and Key-note speeches (9.00-10.45)

At the event, Dr. Marko Bošnjak (CJEU Judge) delivered a keynote lecture addressing the role of academia in the jurisprudence of the Court of Justice of the European Union (CJEU) and the European Court of Human Rights (ECtHR).

In his presentation, he explored the complex relationship between academic scholarship and judicial decision-making at the European level. While judges of both courts rarely cite academic literature explicitly in their judgments, the influence of doctrinal analysis and scholarly debate is nevertheless significant. In particular, Advocates General at the CJEU more frequently engage directly with academic sources in their Opinions, drawing on scholarly arguments to frame and develop legal reasoning.

Dr. Bošnjak emphasized that, despite the limited formal citation practice, academic work is taken seriously within both courts. Legal scholarship often shapes the broader interpretative environment in which judges operate, informs conceptual developments, and contributes to the evolution of doctrinal standards. Moreover, many judges at the CJEU and the ECtHR have academic backgrounds themselves, having previously served as professors or researchers. This close professional and intellectual connection between the judiciary and academia further reinforces the indirect but meaningful impact of scholarly work on European jurisprudence.

The second presentation was delivered by Prof. Stéphanie Laulhé Shaelou, Professor of European Law and Reform at UCLan Cyprus, and Head of School of Law at UCLan, addressing Rule of Law principles in out-of-court settlements, with a particular focus on (non-)judicial independence and impartiality in Europe.

She structured her lecture around three interconnected levels of Rule of Law protection: intergovernmental (Council of Europe), supranational (European Union), and national. At the level of the Council of Europe, she discussed the enforcement system of the European Court of Human Rights (ECtHR), emphasizing the binding force of judgments and the collective dimension of human rights protection. At the EU level, she highlighted the Court of Justice of the European Union (CJEU) 's central role in safeguarding effective judicial protection under Article 19 TEU. Particular attention was devoted to recent case law on judicial independence and the development of a European “judicial space,” in which national courts act as decentralized EU courts and must comply with minimum guarantees of independence and impartiality.

A key contribution of the presentation was the integration of alternative dispute resolution (ADR) into the Rule of Law framework. Prof. Laulhé Shaelou argued that mediation, arbitration, and other out-of-court mechanisms can contribute to “sustainable justice,” provided they respect core Rule of Law principles such as fairness, impartiality, legal certainty, and enforceability. Overall, the lecture offered a concise yet comprehensive reflection on how

courts and non-judicial mechanisms together can uphold the Rule of Law in times of democratic backsliding and institutional turbulence in Europe.

The presentation on Out-of-Court Enforcement Titles in the Practice of the CJEU was delivered jointly by Prof. Dr. Marta Requejo Isidro (CJEU) and Prof. Dr. Dr. h.c. mult. Burkhard Hess (University of Vienna), within the framework of the "Fair-in-Debt" project The speakers analysed the concept of "other enforceable titles" under the Brussels I bis Regulation, focusing on judicial settlements and authentic instruments (such as notarial deeds) and their free circulation within the EU. They explained the distinction between instrumentum (the formally established enforceable title issued by a public authority) and negotium (the underlying substantive legal relationship), emphasizing that only the former benefits from simplified cross-border enforcement.

Particular attention was devoted to the case law of the Court of Justice of the European Union, especially Unibank v Christiansen (C-260/97), which clarified that only documents authenticated by a public authority qualify as authentic instruments for the purposes of EU enforcement. The presentation also addressed recent developments in EU instruments and the international dimension, notably the Singapore Convention on Mediation, highlighting both opportunities and remaining challenges in ensuring efficient and fair cross-border recovery of non-judicial titles.

A lively debate followed the presentation. Among the issues raised was the question of how national authorities should react when an enforcement title appears manifestly incorrect, particularly in light of the principle of mutual recognition, which significantly limits substantive review in the requested Member State. Participants discussed the tension between efficiency and trust on the one hand, and the need to safeguard fundamental procedural guarantees on the other.

Another point concerned the role of modern technologies in cross-border enforcement. Reference was made to the potential use of blockchain-based instruments and digital enforcement titles, but also to the practical and legal challenges they may pose. It was noted that certain technological architectures could complicate or even hinder traditional enforcement mechanisms, raising new questions about jurisdiction, control, and effective remedies within the existing European framework.

Prof. Dr. Vesna Rijavec, University of Maribor, Project Coordinator

Dr. Marko Bošnjak, Judge at CJEU

Prof. Dr. Stéphanie Laulhé Shaelou, UCLan, Cyprus

The international level

The Charter of the United Nations (1945)
https://www.un.org/en/about-us/un-charter

'Thick' approach to the Rule of Law: embraces peace and security and respect for human rights and fundamental freedoms (Article 1) and recognises the international legal order and the sovereignty of the nations (Article 2)

Declaration of the High-Level Meeting of the General Assembly on the Rule of Law at the National and International Levels: resolution A-RES-67-EN, September 2012

"United Nations Charter:
Preamble
WE THE PEOPLES OF THE UNITED NATIONS DETERMINED
to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS
to practice tolerance and live together in peace with one another as good neighbours, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,"

The contextualisation of the Rule of Law in Europe: the regional intergovernmental level

European Commission for Democracy through Law (Venice Commission), Rule of Law Checklist: Adopted by the Venice Commission at its 106th Plenary Session (Strasbourg: Council of Europe, 2016) and Revised in 2025 in the context of RoL regression in Europe.
https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2025)002-e

Framework in Europe to uphold the Rule of Law and deliver sustainable justice in turbulent times.

"33. The Rule of Law is linked not only to human rights but also to democracy, i.e. to the third basic value of the Council of Europe. Democracy relates to the involvement of the people in the decision-making process in a society; human rights seek to protect individuals from arbitrary and excessive interferences with their freedoms and liberties and to secure human dignity; the Rule of Law focuses on limiting and independently reviewing the exercise of public powers. The Rule of Law promotes democracy by establishing accountability of those wielding public power and by safeguarding human rights, which protect minorities against arbitrary majority rules."

COUNCIL OF EUROPE

CONSEIL DE L'EUROPE

European Treaty Series - No. 1

Statute of the Council of Europe *

London, 5.V.1949

The Governments of the Kingdom of Belgium, the Kingdom of Denmark, the French Republic, the Irish Republic, the Italian Republic, the Grand Duchy of Luxembourg, the Kingdom of the Netherlands, the Kingdom of Norway, the Kingdom of Sweden and the United Kingdom of Great Britain and Northern Ireland,

Convinced that the pursuit of peace based upon justice and international co-operation is vital for the preservation of human society and civilisation;

Reaffirming their devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the rule of law, principles which form the basis of all genuine democracy;

Believing that, for the maintenance and further realisation of these ideals and in the interests of economic and social progress, there is a need of a closer unity between all like-minded countries of Europe;

Considering that, to respond to this need and to the expressed aspirations of their peoples in this regard, it is necessary forthwith to create an organisation which will bring European States into closer association,

Article 3
"Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Council as specified in Chapter I."

Statute of the CoE (1949), https://rm.coe.int/1680935bd0

'Thick' approach to the Rule of Law: **Respect for human rights, pluralist democracy and the Rule of Law form together the core objective of the CoE**

The Rule of Law is also mentioned in the Preamble of the **ECHR** and as a founding principle of European democracies and democratic societies in Resolution Res(2002)12 establishing the European **Commission for the Efficiency of Justice (CEPEJ).**

Limits of enforcement of intergovernmental instruments @ national, regional and international level.

Role of court and out of court mechanisms

Article 2 TEU

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

Article 6 TEU

1. The Union recognises the rights, freedoms and principles set out in the Charter of Fundamental Rights of the European Union of 7 December 2000, as adapted at Strasbourg, on 12 December 2007, which shall have the same legal value as the Treaties.

The provisions of the Charter shall not extend in any way the competences of the Union as defined in the Treaties.

The rights, freedoms and principles in the Charter shall be interpreted in accordance with the general provisions in Title VII of the Charter governing its interpretation and application and with due regard to the explanations referred to in the Charter, that set out the sources of those provisions.

2. The Union shall accede to the European Convention for the Protection of Human Rights and Fundamental Freedoms. Such accession shall not affect the Union's competences as defined in the Treaties.

3. Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union's law.

The concept of the Rule of Law in the EU

EU Foundational Treaties: Treaty on the EU (TEU) and Treaty on the Functioning of the EU (TFEU). Basic principles are enshrined in the TEU. e.g. Articles 2, 6, 7, 19 TEU

And the EU Charter (e.g. Article 47)

LATEST: Request by the EC for a (new) opinion from CJEU on the compatibility of the revised draft agreement – concerning the EU's accession to the ECHR – with EU law. Article 6(2) TEU

Manifestation of RoL principles in the EU: emphasis on effective judicial protection and legal remedies –

Key role of court and out of court settlements in the EU architecture (role of the 'EU Judiciary'), in line with European legal traditions. Founded on national/constitutional provisions in civil and common law systems, combining subsidiarity (procedural autonomy) with RoL, sincere cooperation, and mutual recognition principles.

Project: 101251495 — Fair-In-Debt — JUST-2025-JCOO
Fair and Innovative Cross-border Recovery with Out-of-Court Enforcement Titles

01/02/2026-31/1/2028

Sincere Cooperation at CoE/EU level

- 46 Member States
- Intergovernmental organisation
- ECHR and ECtHR
- Intergovernmental enforcement mechanisms across Europe.
- **To execute ECtHR judgments, transmitting of the case file to the Committee of Ministers which issues the obligations of the State to:**
  - pay compensation (just satisfaction, **Article 41 ECHR**);
  - adopt general measures (amendment to legislation, etc) which means that the redress is collective and benefits the whole society;
  - adopt individual measures beyond what exists at national level (restitution, reopening of the proceedings, etc).
- Mechanisms under **Article 46 ECHR** to bind State concerned (individual application or inter-State). Must undertake to abide by the final judgment **(para.1)**. Under **para.4**, if the Committee of Ministers considers that a state refuses to abide by a final judgment in a case to which it is a party, it may, 'refer to the Court the question whether that Party has failed to fulfil its obligation under paragraph 1.'

- 27 Member States
- Supranational organisation
- TEU, TFEU and EU Charter of Fundamental Rights
- CJEU, EU executive, EU legislative
- Supranational enforcement mechanisms within the Union.
- **To enforce EU law, multiple mechanisms are available.**
- **Enforcement mechanisms include indirect/direct actions before courts, compliance/conditionality mechanisms, softer mechanisms, facilitated by legally binding and other instruments based on fundamental freedoms, mutual recognition, and RoL principles.**

Duty of (in)sincere cooperation: impact of States not complying systematically/eroding the RoL/threatening to leave from the CoE? From the EU? Turbulent times undermining sustainable justice.

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ECtHR vs. CJEU Scope of enforcement

- Cases by individuals against States (**Article 34 ECHR**) and between States (**Article 33**).
  - Include individual cases against their own state which is very important for a Human Rights court (ECHR contains a guarantee that the High Contracting Party will not hamper individual cases against it).
  - No possibility to sue another individual.
- ECtHR case law effects can be collective. Instrument of collective enforcement of human rights and fundamental freedoms.
- Right of third-party intervention (**Article 36**).
- Importance and diversity of societal issues brought before the Court. But exhaustion of remedies at national level with decision of highest domestic court(s) required (principle of subsidiarity).
- Friendly settlement possible (**Article 38**).
- **Protocol 16, Article 1: judicial dialogue, to be determined at national level.**

- **Article 19 TEU** includes:
  - The CJEU can rule on actions brought against MS, EU institution or a legal person (binding on them);
  - The CJEU can give preliminary rulings at the request of national courts, on the interpretation of EU law or the validity of EU acts (**Article 267 TFEU – indirect enforcement through judicial dialogue**).
  - Obligation on MS to provide effective remedies in the fields covered by Union law and beyond. Such remedies can include recourse to ADR methods.
- **Article 258 TFEU**: failure on MS to fulfil obligations. Action brought by the EC.
- **Article 259 TFEU**: failure on MS to fulfil obligations. Action brought by another MS.
- **Article 260 TFEU**: CJEU can impose penalties.
- **Article 263 TFEU**: review of legality of EU acts 'intended to produce legal effects vis-à-vis third parties'. Actions brought by privileged or non-privileged applicants. EU acts can be void **(Art 264).**
- **Article 265 TFEU**: failure to act by EU institutions. Obligation to take the necessary measures to comply with judgment (**Art 266**).
- **EU Charter principles / Brussels Regulation principles / other mechanisms including out of court/ADR/softer dispute resolution**
- **Fundamental importance of judicial and non-judicial cooperation in civil and commercial matters. Exclusive CJEU jurisdiction to interpret EU Treaties, but multiple instruments for cooperation exist.**

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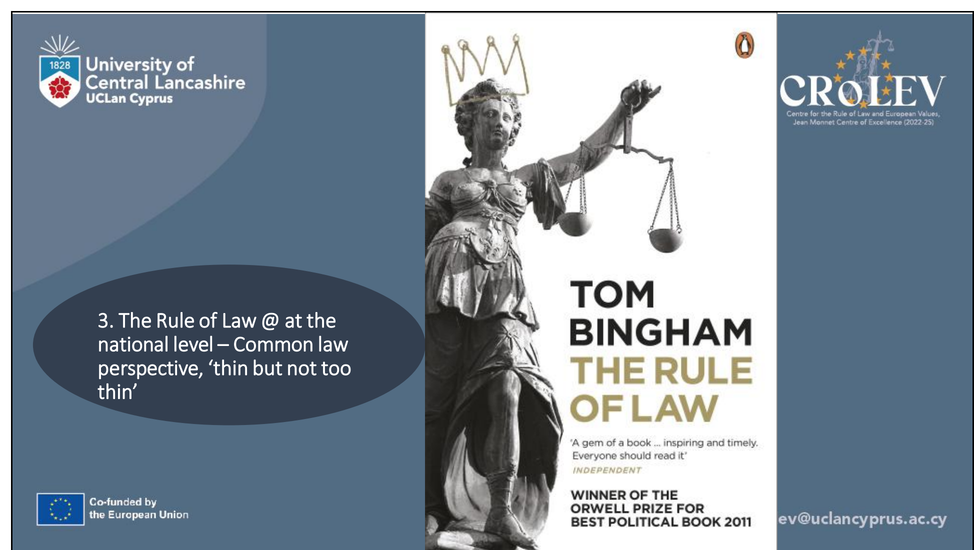

The national level

Why is it important?

Multiplicity of legal orders, sovereignty of nations, diversity of legal cultures and traditions, belonging to societies

So what does it mean the RoL at the national level? What are the implications of a rather 'thin' approach to the RoL? The UK example.

'The core of the existing principle is, I suggest, that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly and prospectively promulgated and publicly administered in the courts. I doubt if anyone would suggest that this statement, even if accurate as one of general principle, could be applied without exception or qualification.'
Lord Bingham of Cornhill (the then Senior Law Lord), 'The Rule of Law', *Cambridge Law Journal*, 66(1), March 2007, 67-85 at 69, www.cambridge.org/core/journals/cambridge-law-journal/article/rule-of-law/0E971B5BB930C2E363D351C5CBC3B855

The original transcript, on which this article is based, is freely available at www.cpl.law.cam.ac.uk/sir-david-williams-lectures/rt-hon-lord-bingham-cornhill-kg-rule-law

The RoL broken down into sub-rules (I)

Access to law

……

Fair application of the law

…….

Equality before the law

……..

Law is defined as an institution underlying society, not only as a process.

'**First**, the law must be accessible and so far as possible intelligible, clear and predictable. …
'My **second** sub-rule is that questions of legal right and liability should ordinarily be resolved by application of the law and not the exercise of discretion. …
'My **third** sub-rule is that the laws of the land should apply equally to all, save to the extent that objective differences justify differentiation. …'.

Lord Bingham of Cornhill (Senior Law Lord), 'The Rule of Law', Cambridge Law Journal, 66(1), March 2007, 67-85 at 69, 72 & 73

The RoL broken down into sub-rules (II)

Protection of fundamental human rights

……..

Affordable and accessible legal remedies

………

Intra vires exercise of power

………

'I turn to my **fourth** sub-rule, which is that the law must afford adequate protection of fundamental human rights. …
'My **fifth** sub-rule is that means must be provided for resolving, without prohibitive cost or inordinate delay, bona fide civil disputes which the parties themselves are unable to resolve. ...
'My **sixth** sub-rule expresses what many would, with reason, regard as the core of the rule of law principle. It is that ministers and public officers at all levels must exercise the powers conferred on them reasonably, in good faith, for the purpose for which the powers were conferred and without exceeding the limits
powers. This sub-rule reflects the well-established and familiar grounds of judicial review.'
Lord Bingham of Cornhill (Senior Law Lord), 'The Rule of Law', *Cambridge Law Journal*, 66(1), March 2007, 75, 77 & 78.

‘So to my **seventh** and penultimate sub-rule: that adjudicative procedures provided by the state should be fair. The rule of law would seem to require no less. ...
My **eighth** and last sub-rule is that the existing principle of the rule of law requires compliance by the state with its obligations in international law, the law which whether deriving from treaty or international custom and practice governs the conduct of nations.’

Lord Bingham of Cornhill (Senior Law Lord), ‘The Rule of Law’, Cambridge Law Journal, 66(1), March 2007, 80 & 81-82.

Upholding the RoL requires judicial and non-judicial independence and impartiality as well as activism within the limits of checks and balances.

The RoL broken down into sub-rules (III)

Due and fair process

....

Compliance with state legal obligations in international law, treaty law and international customary law

....

Upholding the RoL in Europe – (non-)Judicial Independence, Impartiality (JI) and Activism

- The European Judiciary is in transformation in the past 10-5 years, to address challenges/threats to JI. Without full JI (at all levels), there can be no effective Rule of Law protection. Landmark case law of European Courts.
- CJEU: “every Member State must ensure that the bodies which, as ‘courts or tribunals’ within the meaning of EU law, come within its judicial system in the fields covered by that law, meet the requirements of effective judicial protection”, *Associação Sindical dos Juízes Portugueses* (C-64/16) EU:C:2018:117 (ASJP) [37], [40]-[41].
- **The EU moved from effective judicial protection to JI of the ‘EU Judiciary’.**
  - ‘EU judiciary’ also includes national courts since part of their role in effect is to operate as ‘decentralised EU courts’ and hence ‘Union judges’.
  - See AG Bobek’s Opinion in Joined Cases C-748/19 to C-754/19 *Prokuratura Rejonowa w Minsku Mazowieckim/WB and others* (20 May 2021) [139]:

  “...it is vital for the European judicial system categorically to insist on minimal guarantees of judicial independence and impartiality for all its constituent members, *irrespective of* whether in the individual case before a given court, EU law is in fact being applied”.
  - ‘EU judicial space’.

See J. Veraldi & S. Laulhé Shaelou, ‘The Substantive Requirements of Judicial Independence in the EU: Lessons from Times of Crisis’ (EU-POP WP1/2021)

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The EU Judiciary

- **The CJEU established a general obligation for EU MS to guarantee and respect the independence of their national courts and tribunals (more widely understood) via their interpretation of Article 19(1) TEU, second subparagraph.**
- A MS can be found to have failed to fulfil its Treaty obligations by violating the principle of JI via:
  - **Infringement proceedings** against Poland under Article 258 TFEU alleging an infringement of Article 19(1) TEU second subparagraph
    - e.g. *Commission v Poland (Independence of the Supreme Court)* (C-619/18) EU:C:2019:531 (ISC); *Commission v Poland (Judges’ Retirement Age)* (C-192/18) EU:C:2019:924 (JRA).
  - **‘Rule of Law conditionality’ mechanism** (reporting; application of EU Regulation 2020/2092 against Hungary) – latest developments: AG’s Opinion in Case C-225/24, Parliament v Commission AND Case C-829/24 Commission v Hungary (Protection against foreign political interference), 12/2/26
- Proliferation of cases raising JI issues from national courts in many EU MS, under Article 19 TEU which requires **both** arms of the EU Judiciary to be independent (under **Article 19(2) third subparagraph**) (*ASJP* [42]; *Vindel* (C-49/18) EU:C:2019:106 [65]).
  - !!!See Supreme Constitutional Judicial Council of Cyprus, Application 2/2025 in the Varosiotou case, 6/2/26 – EU judiciary in the making!!
- Unlike the provisions of the EU Charter, Article 19 TEU does not have to meet the hurdle of the MS acting within the scope of EU law. Article 19 TEU “aims to guarantee effective judicial protection in ‘the fields covered by Union law’, irrespective of whether the Member States are implementing Union law within the meaning of Article 51(1) [CFR]” (*ISC* [50]; *AK and Others* (C-585/18, C-624–625/18) EU:C:2019:982 [82]; first said in effect in *ASJP* [29]).
- **Fundamental/Essentials guarantees of JI include**: irremovability of judges; commensurate remuneration (vis-à-vis austerity measures; real reduction of salaries pauses a threat to JI); protection from external intervention or pressure in appointments, term duration, remuneration. Measures cannot be discretionary/arbitrary (political decisions/power struggle, Brexit).

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From court to out of court settlement – The unfolding Tale of the Rule of Law

- Responsive judicial review in Europe to tackle the backsliding of the Rule of Law in times of turbulences.
- Responsive non-judicial review is complementary and must be based on the same Rule of Law principles (impartiality, fairness, legal certainty, etc).
- The aim is the pursue of sustainable justice (in all instances). ADR methods are more suited/responsive to meet goals of sustainable justice. But challenges remain, inherent to the nature of ADR (confidentiality, customisation, choice of and rules).

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Key Aspects of Sustainable Justice – Impact assessment of out of court settlements

- Environmental Sustainability
  - Minimal negative impact on environment – green technology, reducing carbon footprint, ecological impact of dispute resolution
- Social Sustainability
  - Promotion of social cohesion and inclusivity – reduce discrimination, ensure access to justice for all, promote human rights
- Economic Sustainability
  - Justice systems need to be financially viable – efficient resource allocation, cost-effective dispute resolution processes, positive contribution of dispute resolution processes to economic development
- Cultural Sustainability
  - Cultural diversity within societies is recognised and respected
- Inter-Generational Justice
  - Needs and right of future generations should be considered – current dispute resolution practices shouls not compromise the well-being and justice of future generations
- *Source slides 20-30: Dr. Nevi Agapiou, CRoLEV didactic materials on Dispute Resolution and Sustainable Justice*

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Sustainable Justice is Human-Centric Justice

We should aim for an integrated approach that recognises the interconnectedness of environmental, social, and economic systems with the legal and justice frameworks seeking to balance the immediate needs of individuals and communities with the long-term well-being of the planet and future generations.

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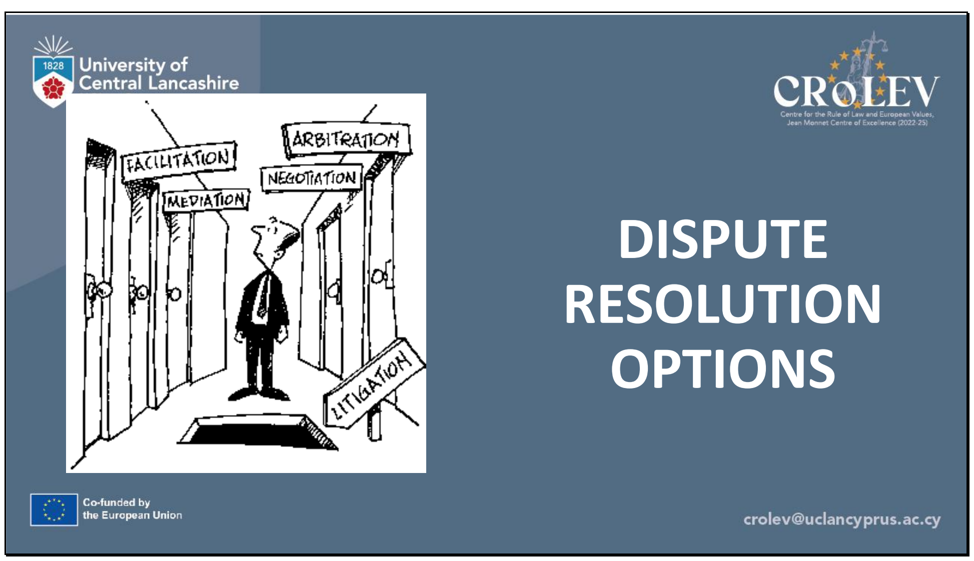

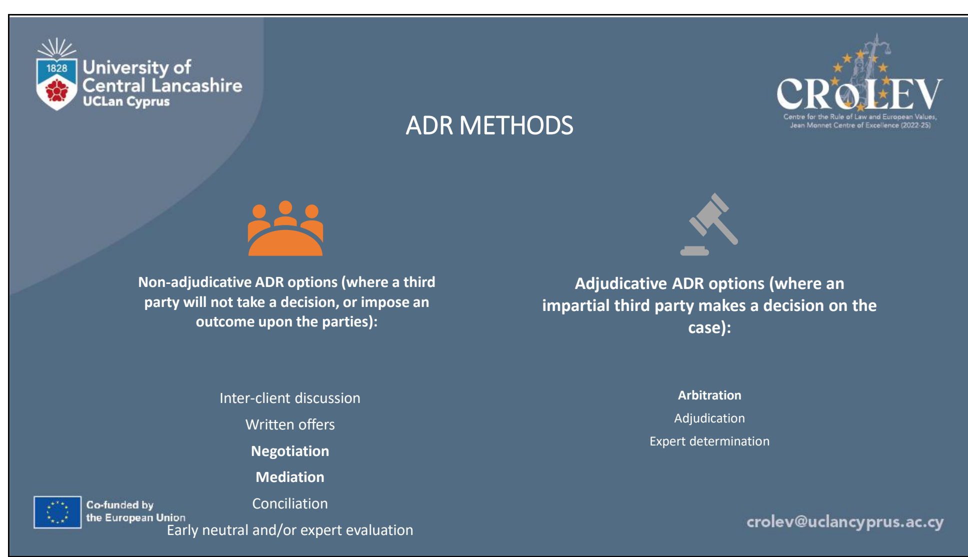

Non-adjudicative ADR options

- **Inter-client discussion:** a party to a dispute may settle the dispute personally, even if they have consulted a lawyer for advice.
- **Written offers:** an offer to settle a dispute may be made in writing, in the form of a letter or email.
- **Negotiation:** a relatively informal process or a more formal settlement meeting involving the discussion of some or all the issues in a case with a view to resolving them on agreed terms.
- **Mediation:** involves a neutral third party who seeks to facilitate the resolution of a dispute.
  - **Conciliation:** also involves a neutral third party who helps the parties to reach a settlement but in conciliation the neutral third party tends to facilitate negotiation between parties rather than to mediate in a more structured way between their positions.
- **Early neutral and/or expert evaluation**: early neutral evaluation (ENE) by an independent third party of some or all of the issues concerning a dispute.

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Adjudicative ADR options

- **Arbitration:** consideration of a dispute by a specially appointed impartial third party (or parties) [arbitrators] that leads to a decision about the dispute being taken by that arbitral tribunal [arbitral award].
- **Adjudication**: a neutral third party acting under an agreed process in order to reach a decision on a dispute, or on specified issues (under regulations/agreement between the parties).
  - For example an adjudication process may be more appropriate in a specialist commercial field where the parties prefer a system adapted to the needs of their industry or business.
- **Expert determination:** the view of an expert may be useful in an adjudicative process in the form of an expert determination (ED).

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OTHER ADR OPTIONS

- Hybrids.
  - Complex dispute resolution.
- Specialist systems.
- Online ADR options.
- Internal dispute management systems.

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Why is there a need for ADR?

- Some factors are:
  - Complex civil procedure rules extending the time and expense needed to resolve the dispute in court.
  - Evidence rules for disclosure and inspection of documents may be burdensome.
  - Adversarial court processes (i.e. case for each side is fully presented and effectively challenged) which may not always be appropriate.
  - Specialist matter at the heart of the dispute.
  - Parties may prefer more personal control over a dispute resolution process rather than relinquish control to a judge(s).
  - Courts can only make decisions they have the technical power to make.
  - ADR is problem solving rather than a process focused on the reaching a judgment which may be more practical and relevant in some cases.

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COURT RECOGNITION OF ADR - (non-)Judicial dialogue

- Steady growth in recognition or, and support for, ADR options by courts.
- See *Calderbank v Calderbank* [1976] Fam 93; *Practice Note: Commercial Court: Alternative Dispute Resolution* [1994] 1 All ER 34; *High Court Practice Note (Civil Litigation: Case Management* [1995] 1 All ER 385; Woolf Reforms and the Civil Procedure Rules (CPR) 1998 that followed.
- In *Dunnett v Railtrack* [2002] 1 WLR 2434 the courts showed that they were prepared to impose a costs penalty on the party who failed to take part in an ADR process.
- In *Halsey v Milton Keynes NHS Trust* [2004] 1 WLR 3002 the court reviewed practice relating to ADR, accepting its potential benefits, especially in voluntary process such as mediation.
- In *Burchell v Bullard* [2005] BLR 330 involving a dispute over building work it was made very clear that ADR should have been attempted.
- On the basis of *PGF II SA v OMFS Company 1 Limited* [2014] 1 WLR 1386, failing to respond to an offer to use ADR may be penalised as a refusal to use ADR.

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Directive 2008/52/EC of the European Parliament and of the Council of 21 May 2008 on certain aspects of mediation in civil and commercial matters

- **Applicable to cross-border disputes in civil and commercial matters.**
- **The principal objective of this legal instrument is to encourage the recourse to mediation in the Member States.**
- **The directive contains five substantive rules:**
- **It obliges each Member State to encourage the training of mediators and to ensure high quality of mediation.**
- **It gives every judge the right to invite the parties to a dispute to try mediation first if she/he considers it appropriate given the circumstances of the case,**
- **It provides that agreements resulting from mediation can be rendered enforceable if both parties so request. This can be achieved, for example, by way of approval by a court or certification by a public notary.**
- **It ensures that mediation takes place in an atmosphere of confidentiality. It provides that the mediator cannot be obliged to give evidence in court about what took place during mediation in a future dispute between the parties to that mediation.**
- **It guarantees that the parties will not lose their possibility to go to court as a result of the time spent in mediation: the time limits for bringing an action before the court are suspended during mediation.**

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European Code of Conduct for Mediators

- **Sets out a number of principles to which individual mediators can voluntarily decide to commit.**
- **Has been developed by a group of stakeholders with the assistance of the European Commission.**

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Mediation in EU Countries

Mediation is at varying stages of development in Member States. There are some Member States with comprehensive legislation or procedural rules on mediation. In others, legislative bodies have shown little interest in regulating mediation. However, there are Member States with a solid mediation culture, which rely mostly on self-regulation.

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The Singapore Convention on Mediation

- **In December 2018, the United Nations General Assembly adopted, by consensus, the United Nations Convention on International Settlement Agreements Resulting from Mediation, recommended that the Convention be known as the "Singapore Convention on Mediation", and authorised the signing ceremony of the Convention to be held in Singapore on 7 August 2019.**
- **The Singapore Convention is a uniform and efficient framework applicable to international settlement agreements resulting from mediation, concluded by parties to resolve a commercial dispute. The goal is to facilitate international trade and commerce by enabling disputing parties to easily enforce and invoke settlement agreements across borders.**

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Med-Arb

- **Med-arb is a hybrid, two-stage alternative dispute resolution (ADR) process.**
- **It usually involves the parties agreeing to grant a mediator power to convert automatically to being an arbitrator, and to make a legally binding arbitral award, if the mediation fails to result in a settlement of the relevant dispute.**
- **The arbitration phase of the process will be legally binding, and the arbitrator's award will be enforceable like an award rendered in standard arbitration proceedings, which is usually advantageous.**

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What is Arbitration?

- An adjudicative dispute resolution process.
  - Consideration of a dispute by a specially appointed impartial third party (or parties) [arbitrators] that leads to a decision about the dispute being taken by that arbitral tribunal [arbitral award].
  - Arbitration is an effective way of obtaining a final and binding decision on a dispute, or series of disputes, without a reference to a court of law.
  - Has been called 'private version of litigation.'
- Based on an agreement between the parties to refer a dispute or difference between them to impartial arbitrators for a decision.
  - Consequently, not every dispute can go to arbitration.

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An Important Dispute Resolution Method

- Arbitration is the principal method of resolving international disputes involving states, individuals and corporations as a result of the increased globalisation of international trade and investment.
- Such globalisation has resulted in harmonised arbitration practices resting on sophisticated rules of arbitration which are administered by institutions around the world such as the International Chamber of Commerce (ICC) and the London Court of International Arbitration (LCIA).
- Rules of arbitration are supported by national arbitration laws inspired by the United Nations Commission on International Trade Law (UNCITRAL) Model Law aiming to maximise the effectivenes of the arbitral process, whilst minimising judicial intervention, other than when it is needed to support arbitration agreements and awards.

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UNCITRAL Model Law

- UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006 (also known as 'UNCITRAL Model Law' or 'Model Law').
- The Model Law is designed to assist States in reforming and modernizing their laws on arbitral procedure so as to take into account the particular features and needs of international commercial arbitration.
- It covers all stages of the arbitral process from the arbitration agreement, the composition and jurisdiction of the arbitral tribunal and the extent of court intervention through to the recognition and enforcement of the arbitral award.
- It reflects worldwide consensus on key aspects of international arbitration practice having been accepted by States of all regions and the different legal or economic systems of the world.
- Legislation based on the Model Law has been adopted in 85 States in a total of 118 jurisdictions.

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UNCITRAL Model Law - A worldwide success

- **States have either adopted legislation based on the Model Law or carefully followed its format and provisions without adopting it, eg. Arbitration Act 1996.**
  - **The advisory committee established in the UK to report on the Bill that became the Arbitration Act 1996 stated in the DAC Report 1996, para 4: '[A]t every stage in preparing a new draft Bill, very close regard was paid to the Model Law, and it will be seen that both the structure and the content of the July draft bill, and the final bill, owe much to this model.'**
  - **The Law Commission on 30 November 2021 announced that it will conduct a review of the Arbitration Act 1996, the principal legislation governing arbitrations in England, Wales and Northern Ireland.**

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Legal Regime

- **International arbitration is governed by a multi-tier legal regime.**
- **That regime includes:**
  - **(a) international arbitration conventions, particularly the New York Convention,**
  - **(b) national arbitration legislation, particularly local enactments of the UNCITRAL Model Law,**
  - **(c) institutional arbitration rules, incorporated by parties' arbitration agreements, and**
  - **(d) arbitration agreements, given effect by international arbitration conventions and national arbitration legislation.**

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Role of Courts

- **There is an interplay between the private arbitral process and the courts.**
- **Must be recognized but not exaggerated.**
- **This interplay may take place at almost any phase of the arbitral process.**
  - **Eg. Necessary at the outset of an arbitration for the claimant to ask the court to enforce an agreement to arbitrate, which the other party is seeking to avoid by commencing legal proceedings.**
  - **Eg. During the course of the arbitration it may be necessary for a party to apply to the relevant court for assistance to block a bank account or in order to seize assets to prevent them disappearing.**

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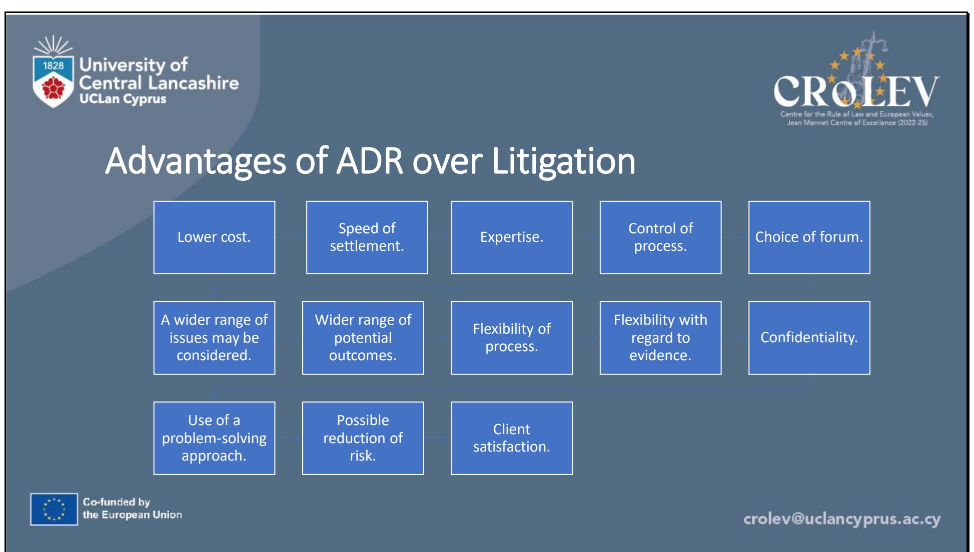

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Advantages of ADR over Litigation
Lower cost.
Speed of settlement.
Expertise.
Control of process.
Choice of forum.
A wider range of issues may be considered.
Wider range of potential outcomes.
Flexibility of process.
Flexibility with regard to evidence.
Confidentiality.
Use of a problem-solving approach.
Possible reduction of risk.
Client satisfaction.
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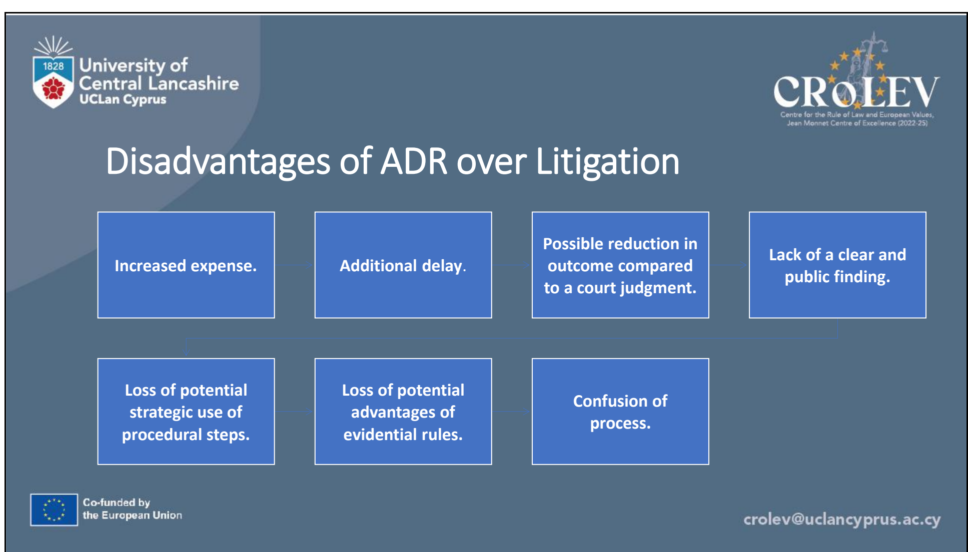

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Disadvantages of ADR over Litigation
Increased expense.
Additional delay.
Possible reduction in outcome compared to a court judgment.
Lack of a clear and public finding.
Loss of potential strategic use of procedural steps.
Loss of potential advantages of evidential rules.
Confusion of process.
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Thank you.
Any Questions?
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Out of court enforcement titles in the practice of the CJEU

1. "Other enforceable titles": judicial settlements and notarial deeds in the Brussels regime
2. Basic concepts :"Instrumentum "and "negotium"
3. Impacts of the CJEU's decision in case C-260/97 (*Unibank v. Christiansen)*
4. Caselaw and practice after *Unibank*
5. Current challenges

   5.1 Notarial deeds and settlements in other EU instruments

   5.2 Perspectives of the Singapore Convention
6. Conclusions

Article 58 Brussels I^{bis} Regulation

1. An **authentic instrument** which is enforceable in the Member State of origin shall be enforceable in the other Member States without any declaration of enforceability being required. Enforcement of the authentic instrument may be refused only if such enforcement is manifestly contrary to public policy (*ordre public*) in the Member State addressed.

   The provisions of Section 2, Subsection 2 of Section 3, and Section 4 of Chapter III shall apply as appropriate to authentic instruments.
2. The authentic instrument produced must satisfy the conditions necessary to establish its authenticity in the Member State of origin.

Articles 59 and 60 Brussels I^{bis} Regulation

Article 59

A **court settlement** which is enforceable in the Member State of origin shall be enforced in the other Member States under the same conditions as authentic instruments.

Article 60

The competent authority or court of the Member State of origin shall, at the request of any interested party, issue the certificate using the **form set out in Annex II** containing a summary of the enforceable obligation recorded in the authentic instrument or of the agreement between the parties recorded in the court settlement.

1. "Other enforceable titles": judicial settlements and notarial deeds in the Brussel regime

- An extension of the free movement of judgments to other enforceable titles (court settlements and notarial deeds) conceived as functionally identical in the procedures of the original six contracting states parties to the 1968 Brussels Convention.
- Formalisation of the notion and concept in case C-260/97 (*Unibank v. Christiansen).*
- Missing case law in the Brussel's framework since 1999.
- The rise of free movement of notarial and other official documents outside the scope of the Brussels I^{bis} Regulation.

2. Basic concepts: "Instrumentum "and "negotium"

Instrumentum designates the encorceable title – to be established by a notary or public authority. The necessary elements are found in articles 2 (b – settlement) and (c – authentic instrument) as well as in article 59 of the Brussels Ibis Regulation.

Negotium refers to the substantive claim underlying the instrument, the contract establishing the obligation or an acknowledgment of debt. It is subject to the applicable conflict of laws' rules.

The negotium is not reviewed in the enforcement proceedings in the requested state but might be reviewed in opposition proceedings in the member state of origin.

3. Impacts of the CJEU's decision in case C-260/97 (*Unibank v. Christiansen),* ECLI:EU:C:1999:312

The CJEU outlawed private deeds and ruled that such instrument needs to be produced by a public authority to circulate freely under the Convention (para 20).

Article 2 Brussels I^{bis} reads today :

(c) 'authentic instrument' means a document which has been formally drawn up or registered as an authentic instrument in the Member State of origin and the authenticity of which:

(i) relates to the signature and the content of the instrument; and

(ii) has been established by a public authority or other authority empowered for that purpose;

5. Current challenges
5.1 Authentic instruments and settlements in other EU instruments

Art. 25 EEO-Regulation (805/2004)

Art. 48 Maintenance Regulation (4/2009)

Art. 64 ff. Brussels IIb Regulation (2019/1111)

Art. 59 – 61 Succession Regulation (655/2014)

Art. 58 – 60 Matrimonial Property Regulations (2016/1103, 2016/1104)

Nota bene: enlargement of the concept in Art. 59 Succession Regulation, Art. 58 Matrimonial Property Regulations: "acceptance" hentic instruments deeds – Study PE 556.935 (2016).

5.2 International Mediation Settlements: The 2019 Singapore Convention

5.2.1 Scope and objective

Article 2. Definitions

3. "Mediation" means a process, irrespective of the expression used or the basis upon which the process is carried out, whereby parties attempt to reach an amicable settlement of their dispute with the assistance of a third person or persons ("the mediator") lacking the authority to impose a solution upon the parties to the dispute.

Article 3. General principles

1. Each Party to the Convention shall enforce a settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention.

Art. 5: Grounds for refusing to grant relief:

(1) The competent authority of the Party to the Convention where relief is sought under article 4 may refuse to grant relief at the request of the party against whom the relief is sought only if that party furnishes to the competent authority proof that:

(a) A party to the settlement agreement was under some *incapacity*;

(b) The *settlement agreement* sought to be relied upon:

(i) Is *null and void, inoperative* or incapable of being performed under the law to which the parties have validly subjected it or, failing any indication thereon, under the law deemed applicable by the competent authority of the Party to the Convention where relief is sought under article 4;

(ii) Is *not binding*, or is not final, according to its terms; or

(iii) Has been *subsequently modified*;

(c) The *obligations* in the settlement agreement:

(i) *Have been performed*; or

(ii) *Are not clear* or comprehensible;

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Art. 5: Grounds for refusing to grant relief:

(d) Granting relief would be contrary to the terms of the settlement agreement;

(e) There was a *serious breach by the mediator of standards applicable* to the mediator or the mediation without which breach that party would not have entered into the settlement agreement; or

(f) There was a failure by the mediator to disclose to the parties circumstances that raise justifiable doubts as to the *mediator's impartiality or independence* and such failure to disclose had a material impact or undue influence on a party without which failure that party would not have entered into the settlement agreement.

2. The competent authority of the Party to the Convention where relief is sought under article 4 may also refuse to grant relief if it finds that:

(a) Granting relief would be contrary to the *public policy* of that Party; or

(b) The *subject matter* of the dispute is *not capable of settlement by mediation* under the law of that Party

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5.2.2. Granting relief under the Convention

Article 3. General principles

2. If a dispute arises concerning a matter that a party claims was already resolved by a settlement agreement, a Party to the Convention shall allow the party to invoke the settlement agreement in accordance with its rules of procedure and under the conditions laid down in this Convention, *in order to prove that the matter has already been resolved*.

Res Judicata?

Item 2: Round table of project Fair-In-Debt partner institutions' introductory presentations (project baseline) (11.00-12.30)

The roundtable session featured introductory presentations by the Fair-In-Debt partner institutions to establish the project baseline. The discussion was moderated by Prof. Dr. Tjaša Ivanc.

All participating partners who took the floor presented selected national perspectives based on the guiding questions that had been circulated in advance by e-mail, namely: How out-of-court enforcement titles are regulated in your country, whether any enforcement titles exist that are not regarded as authentic instruments, whether there are enforcement titles that both qualify as authentic instruments and fall within the scope of the Brussels I Recast Regulation.

The session was opened by colleagues from Leibniz Universität Hannover, Enis Robert Dibrani and Prof. Dr. Christian Wolf, who presented the German legal framework, addressing the classification of enforcement titles and their interaction with the concept of authentic instruments under EU law.

This was followed by the presentation of colleagues from University of Padua, led by Prof. Dr. Sara Tonolo, who outlined the Italian regulatory approach, highlighting specific doctrinal and practical challenges concerning out-of-court enforcement titles and their cross-border circulation.

Written contributions were also submitted by Prof. Dr. Bettina Nunner-Krautgasser from the University of Graz and Fabienne Labelle from the University of Tours, presenting the Austrian and French perspectives on the issues mentioned above. The French contribution emphasized that, in France as in several other civil law jurisdictions, certain private documents may constitute directly enforceable titles. These include notarial deeds and other authentic

instruments. A particular emphasis was placed on the increasingly important mediating role of both notaries and commissioners of justice. Mediation forms an integral part of their duties. This development is also linked to broader public policy considerations: in a context of budgetary constraints and efforts to reduce litigation costs, there has been a gradual transfer of certain powers from courts to public officers. The French contribution stressed the importance of the human dimension in the system of extrajudicial enforcement. The instrument remains in human hands: public officers are entrusted not only with drafting enforceable titles but also with safeguarding fairness, ensuring informed consent, and mediating disputes. This raises broader civilisational questions, particularly in light of the growing role of digitalisation and artificial intelligence.

Within the round table discussion, additional viewpoints and practical considerations were contributed by Jesus Borez Lazo (Boleo Global), who shared insights from a transnational and practice-oriented perspective, and Dr. Boštjan Kežmah from Cepris, who addressed issues related to digitalisation and its impact on enforcement titles and procedural efficiency.

The round table fostered a comparative exchange of views and identified several common challenges as well as divergences among national systems, thereby laying the groundwork for the further development of the project questionnaires and research framework.

Out-of-court Enforcement – German perspective

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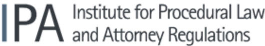


§ 1 How are out-of-court enforcement titles regulated in germany?

§ 2 Do any enforcement titles exist that are not regarded as authentic instruments?

§ 3 Are there enforcement titles that both qualify as authentic instruments and fall with the scope of the Brussels I bis Reg?

§ 1 How are out-out-court enforcement titles regulated in germany?

Sec. 794 para. 1 German Code of Civil Procedure (ZPO):

(1) Compulsory enforcement may furthermore be pursued:

1. Based on settlements concluded by the parties, or between one of the parties and a third party, in order to resolve the legal dispute either in its full scope or as regards a part of the subject matter of the litigation, before a German court or before a dispute-resolution entity established or recognised by the Land department of justice (Landesjustizverwaltung), as well as based on settlements that have been recorded pursuant to section 118 (1), third sentence, or section 492 (3) for the record of the judge;

2. Based on orders assessing the costs;

3. Based on decisions against which a complaint may be lodged as an appellate remedy;

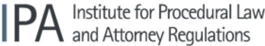
4. Based on writs of execution;

4a. Based on decisions declaring arbitration awards as enforceable, provided that the decisions are final and binding or have been declared provisionally enforceable;

4b. Based on orders pursuant to section 796b or section 796c;

5. Based on records or documents that have been recorded in accordance with the requirements as to form by a German court or by a German notary within the bounds of his official authority, provided that the record or document has been recorded regarding a claim that can be provided for by a settlement, that is not directed at obtaining a declaration of intent, and that does not concern the existence of a tenancy relationship for residential spaces, and furthermore provided that the debtor has subjected himself, in the record or document, to immediate compulsory enforcement of the claim as specified therein;

6. Based on European orders for payment that have been declared enforceable.



§ 1 How are out-out-court enforcement titles regulated in germany?

Sec. 794 para. 1 no. 5 of the German Code of Civil Procedure (ZPO):

"Compulsory enforcement may furthermore be pursued:

based on records or documents that have been recorded in accordance with the requirements as to form by a German court or by a German notary within the bounds of his official authority, provided that the record or document has been recorded regarding a claim that can be provided for by a settlement, that is not directed at obtaining a declaration of intent, and that does not concern the existence of a tenancy relationship for residential spaces, and furthermore provided that the debtor has subjected himself, in the record or document, to immediate compulsory enforcement of the claim as specified therein; […]"

§ 1 How are out-out-court enforcement titles regulated in germany?

Sec. 60 Social Code (SGB VIII)

Enforcement shall take place on the basis of documents that relate to an obligation under Section 59 (1) sentence 1 no. 3 or 4 and that have been drawn up by an official or employee of the youth welfare office within the limits of his or her official powers in the prescribed form, enforcement shall take place if the declaration concerns the payment of a specific sum of money and the debtor has agreed in the document to immediate enforcement. Service may also be effected by the official or employee handing the debtor a certified copy of the document; Section 174, sentences 2 and 3 of the Code of Civil Procedure shall apply mutatis mutandis. The provisions applicable to the enforcement of court documents pursuant to Section 794 (1) No. 5 of the Code of Civil Procedure shall apply mutatis mutandis to enforcement, subject to the following provisions:

1.The enforceable copy and the confirmations pursuant to Section 1079 of the Code of Civil Procedure shall be issued by the officials or employees of the youth welfare office who are responsible for certifying the declaration of commitment. The same shall apply to the quantification of a declaration of commitment pursuant to Section 790 of the Code of Civil Procedure.

2. The local court responsible for the youth welfare office shall decide on objections concerning the admissibility of the enforcement clause or the admissibility of the quantification pursuant to Section 790 of the Code of Civil Procedure, on the issuance of a further enforceable copy, and on applications pursuant to Section 1081 of the Code of Civil Procedure.

I. „Unterwerfungserklärung“

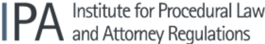
- According to **Sec. 794 para. 1 no. 5 ZPO**, a enforceable deed serves as a enforcement title.
- This deed is only enforceable, if it is the result of a voluntary declaration of submission/ „cognovit clause“ (*Unterwerfungserklärung*). The *Unterwerfungserklärung* has to be documented in the deed or least be able to be inferred from it.
- The requirement of voluntariness justifies further judicial proceedings being unnecessary.
- Rather, the creditor should be able to enforce immediately, regardless of the existence of a substantive legal claim, and the procedural burden of initiating proceedings should be shifted to the debtor.
  - The subject matter of the “Unterwerfungserklärung” is a procedural declaration in context of a material debt.
  - Except for claims concern tenancy relationships

II. Case Law

1. Certainty of the “Unterwerfungserklärung”, BGH, V ZR 82/13, NJW 2015, 1181 Rn. 8 ff.
   - Requires precise identification of the claim in accordance with the procedural requirement of certainty.
     - ➢ requirements for certainty apply as for the claim and the judgment

2. Change in the burden of initiative, BGH, VII ZR 388/00, NJW 2002, 138 (139)

- The declaration of submission reverses the requirement to file an action.



III. Notarization Procedure

- Sec. 6 ff. BeurkG
- Sec. 17 BeurkG- magna charta of notary act
  - Investigate intentions, clarify facts, inform parties involved about the legal scope of the transaction, avoid errors and doubts
  - In case of doubt, the issues should be discussed

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IV. Enforcement clause

- Sec. 52 BeurkG, Sec. 795, 724
  - ➢ Enforcement of the authentic instrument requires the incorporation of a corresponding clause.
- The title should only be examined for its formal enforceability,
  - ➢ substantive criteria are generally disregarded
- Section 767 of the German Code of Civil Procedure (ZPO) permits substantive objections to be raised against enforcement.
- The grant is made in accordance with Sec. 52 BerukG
  - ➢ solely on the basis of the requirements of the ZPO
- There is no substantive review of the declaration of submission
  - ➢ BGH, VII ZB 62/08 (LG Hamburg), NJW 2009, 1887

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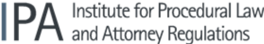


§ 2 Do any enforcement titles exist that are not regarded as authentic instruments?

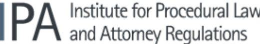
- Definition of the authentic instruments
  - public authority, or by a person or entity vested with public trust
  - the scope of its official responsibilities
  - certifying claim
  - form
  - ➢ No deeds between parties are authentic instruments

Enforcement titles regarded as authentic instruments

- Section 794 No. 1-5 ZPO
  - Lawyer settlement, arbitral awards needs the declaration of enforceability

§ 3 Are there enforcement titles that both qualify as authentic instruments and fall with the scope of the Brussels I bis Reg?

- ECJ, Unibank A/S, C-260/97
  - Nr. 15: the authentic nature of such instruments must be established beyond dispute so that the court in the State in which enforcement is sought is in a position to rely on their authenticity. Since instruments drawn up between private parties are not inherently authentic, the involvement of a public authority or any other authority empowered for that purpose by the State of origin is needed in order to endow them with the character of authentic instruments.
  - Nr. 17: „Paragraph 72 of the Jenard-Möller Report states that the representatives of the Member States of the European Free Trade Area (EFTA) requested (…)
    three conditions,
    - namely: 'the authenticity of the instrument should have been established by a public authority;
    - this authenticity should relate to the content of the instrument and not only, for example, the signature;
    - the instrument has to be enforceable in itself in the State in which it originates'."



§ 3 Are there enforcement titles that both qualify as authentic instruments and fall with the scope of the Brussels I bis Reg?

- Section 308 Insolvency Code (-) → European Insolvency Regulation 2015
- Section 60 Social Code (-) → European Regulation no. 4/2009 on relating to maintenance obligations
- Section 405 German Code of Criminal Procedure (+)

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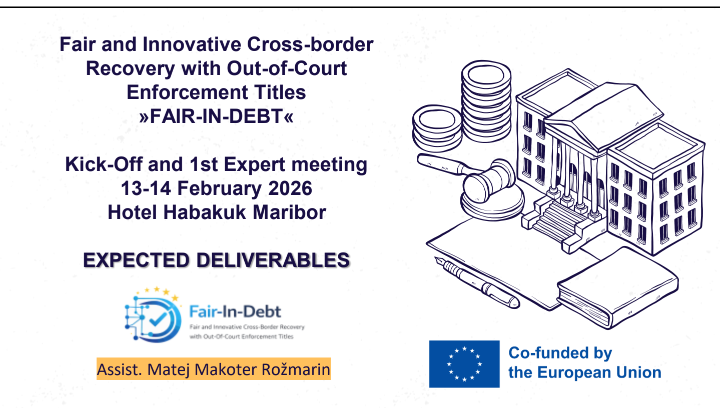
Item 3: Presentation of the administrative management of the project and project deliverables and discussion (12.30 -13.30)

Assist. Matej Makoter Rožmarin, delivered presentation outlining the expected deliverables and structure of the Fair and Innovative Cross-border Recovery with Out-of-Court Enforcement Titles (FAIR-IN-DEBT) project.

The project runs from 1 February 2026 to 31 January 2028 (24 months) and is organised into four work packages comprising a total of 22 deliverables. Work Package 1 focuses on project management and coordination. Work Package 2 covers comparative research on out-of-court enforcement titles, including a research questionnaire (Month 5), national reports (Month 11), and a final comparative expert report (Month 24). Work Package 3 is dedicated to awareness raising and capacity building, while Work Package 4 addresses digitalisation and AI implementation in the context of cross-border enforcement.

The presentation provided a clear roadmap of the project's research, organisational, and technological objectives, linking doctrinal analysis with practical implementation and innovation.



Fair-In-Debt project duration

- Project starting date: fixed date: **1 February 2026**
- Project end date: **31 January 2028**
- Project duration: **24 months**

4 Work Packages – 22 Deliverables

- Work Package 1: Project management and coordination – 4 Deliverables
- Work Package 2: Comparative research work – 6 Deliverables
- Work Package 3: Awareness raising & Capacity building – 7 Deliverables
- Work Package 4: Digitalisation and AI implementation – 5 Deliverables

Work Package 1: Project management and coordination Deliverables

Deliverable Name	Lead Beneficiary	Due Date (month number)	Description (including format and language)
Project Handbook	UM	3 April 2026	The project handbook will include a work plan, timetable, methodology, expected outcomes, and a gender equality plan.
Quality management plan	UM	4 May 2026	It will present the project charter, internal reporting procedures and forms, quality review checklists.
Dissemination Strategy	UM	4 May 2026	Definition of target groups, identification of communication channels (personal, institutional, national, international), action-plan and milestones.
Sustainability Plan	UM	24 January 2028	Action-plan for sustainability in English, electronic format

Work Package 2: Comparative research work - Deliverables

Deliverable Name	Lead Beneficiary	Due Date (month number)	Description (including format and language)
Project kick-off in Maribor, SI ✓	UM	2 March 2026	Duration: 2 days Participants: 30-40 Language: English. Format: In person. Documents: Agenda, Presence List, Minutes/Event Report.
Interim Expert meeting in Tour, FR	UdT	14 March 2027	Duration: 2 days Participants: 20-30 Language: English. Format: In person. Documents: Agenda, Presence List, Minutes/Event Report.
Concluding Expert meeting in the Padua, IT	UNIOD	22 November 2027	Duration: 2 days Participants: 20-30 Language: English. Format: In person. Documents: Agenda, Presence List, Minutes/Event Report.
Research Questionnaire regarding out of court ET.	UM	5 - June 2026	1x. Format: electronic. Language: English.
National research reports regarding out of court ET.	UM	11 - December 2026	15x national reports on authentic documents. Format: electronic. Language: English.
Final Comparative expert report on out of court ET.	UM	24 - January 2028	1x. Format: electronic. Language: English.

Timeline

- **Research questionnaire regarding out of court ET – Month 5 (June 2026)**

- **National research reports regarding out of court ET – Month 11 (December 2026)**
- **Final Comparative expert report on out of court ET – Month 24 (January 2028)**

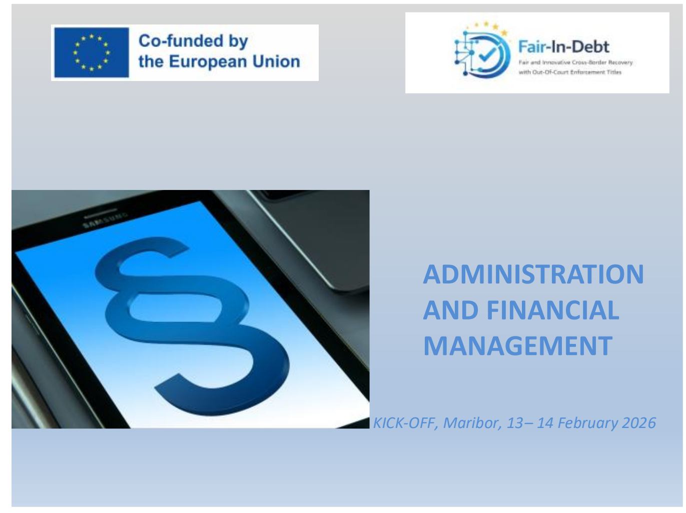
Work Package 3: Awareness raising & Capacity building

Deliverable Name	Lead Beneficiary	Due Date (month number)	Description (including format and language)
International Conference	UM	22 November 2027	Convened will be one international conference; due to organisational reasons will be held in Slovenia. Expected are around 80 participants.
Workshops	UM	22 November 2027	In each participating MS (11) will be conducted one workshop for target groups on out-of-court ET in their respective language. Duration: 1 day. Format: Face to face / online
Feedback questionnaire	UM	23 December 2027	Tailored questionnaire centred at substantive feedback and gender and profession dissagregated data will be prepared and used in all events. Format: electronic. Language: English, Croatian, Dutch, French, German, Italian, Polish, Slovene, Spanish, Swedish.
Brochure	REWI	22 November 2027	Brochure presenting the project findings in concise and illustrative way, with the recommendations practical applications. Languages: English, Croatian, Dutch, French, German, Italian, Polish, Slovene, Spanish, Swedish. Format: electronic.
Multilingual glossary	UCLan	22 November 2027	A multilingual glossary containing key terms on the out-of-court ET will be prepared. Format: electronic. Language: English, Croatian, Dutch, French, German, Italian, Polish, Slovene, Spanish, Swedish.
Project website	UM	3 April 2026	Website will be set-up, maintained and administered throughout the project. It will be a repository of information, expert material, etc. Language: English.
Podcasts	UM	24 January 2028	Podcast series about the topics concerning out-of-court ET. Recordings of the podcast will be publicly available. Number: 11 episodes Duration: approx.. 45 min Language: English Format: electronic

Work Package 4: Digitalisation and AI implementation

Deliverable Name	Lead Beneficiary	Due Date (month number)	Description (including format and language)
Prototype out-of-court ET atlas	UWr	24 January 2028	A prototype out-of-court ET atlas with information on such national enforceable titles will be established. The atlas will present the national regulations of 15 Member States. Language: English. Format: electronic.
Simulation of cross-border notarial hearing	UM	14 March 2027	Simulation adjoined to interim expert meeting. Duration: 1 day. Participants: 20-30 Language: English. Format: Electronic. Documents: Event Report.
Teaching platform with AI chatbot	CEPRIS	24 January 2028	The training platform will incorporate training materials from workshops, conference and other activities, tailored for a user-friendly learning experience. Will incorporate AI-driven chatbot. Language: English. Format: electronic.
Comparative Report on Notarial Digital Platforms	UNIRI	23 December 2027	Comparative analysis of national digital infrastructures used by notaries for issuing and transmitting out-of-court ET. Language: English. Format: electronic
Study on electronic storage and archiving of notary acts	CEPRIS	22 November 2027	Language: English. Format: electronic

Jasmina Klojčnik, Head of the Project Office at the Faculty of Law, University of Maribor, presented the basic project features and implementation rules.



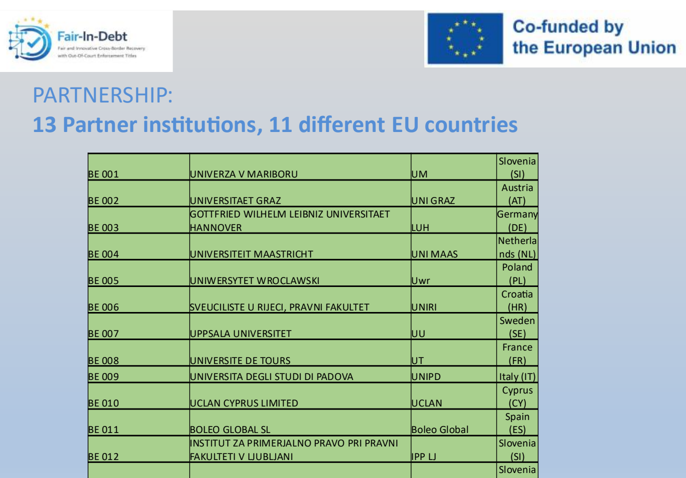
Duration
01/02/2026 – 31/01/2028
(24 months)

Project ID
101251495

LEGAL GUIDANCE & IMPLEMENTATION & MONITORING

1. Grant Agreement
2. Consortium agreement
3. How to manage your lumpsum grants (Version 1.4, 15 October 2025)
4. EU Funding & Tenders Portal

A SHARED ONLINE PROJECT PORTFOLIO WILL BE PREPARED



PARTNERSHIP:
13 Partner institutions, 11 different EU countries

BE 001	UNIVERZA V MARIBORU	UM	Slovenia (SI)
BE 002	UNIVERSITAET GRAZ	UNI GRAZ	Austria (AT)
BE 003	GOTTFRIED WILHELM LEIBNIZ UNIVERSITAET HANNOVER	LUH	Germany (DE)
BE 004	UNIVERSITEIT MAASTRICHT	UNI MAAS	Netherlands (NL)
BE 005	UNIWERSYTET WROCLAWSKI	Uwr	Poland (PL)
BE 006	SVEUCILISTE U RIJECI, PRAVNI FAKULTET	UNIRI	Croatia (HR)
BE 007	UPPSALA UNIVERSITET	UU	Sweden (SE)
BE 008	UNIVERSITE DE TOURS	UT	France (FR)
BE 009	UNIVERSITA DEGLI STUDI DI PADOVA	UNIPD	Italy (IT)
BE 010	UCLAN CYPRUS LIMITED	UCLAN	Cyprus (CY)
BE 011	BOLEO GLOBAL SL	Boleo Global	Spain (ES)
BE 012	INSTITUT ZA PRIMERJALNO PRAVO PRI PRAVNI FAKULTETI V LJUBLJANI	IPP LJ	Slovenia (SI)
BE 013	Cepris d.o.o.	Cepris	Slovenia (SI)

PARTNERS CAN MODIFY THEIR TEAMS IN THE EU PORTAL

WORK PACKAGES

WP1 – Management and Coordination

WP2 – Comparative research work

WP3 – Awareness raising & Capacity building

WP4 – Digitalisation and AI implementation

GA – Annex I

HOW TO MANAGE A LUMP SUM GRANT (Guidelines)

HOWEVER,

The Guidelines in the point 5 say:

„… (Budget transfers) The consortium is free to spend the lump sum as they see fit, provided the project is carried out as described in the grant agreement.“

and:

„… in case there are substantial differences to the real implementation, it may be in your interest to formalise changes to the budget via an amendment.“

REPORTING

At the end of the reporting period, for F-I-D it is month 24 (end of project), we need to submit the technical and financial report

- the coordinator must complete the 'status of work packages' table and mark work packages as 'completed' or 'not completed'
- the technical report should focus on the completion of work packages (focus on who-did-what)
- the financial report is much simplified and to a large extent automated

COMPLETION OF THE WORK PACKAGES WILL BE CAREFULLY ASSESSED (partial approval is possible !)

KEEPING RECORDS

The beneficiaries must in the set period — **For F-I-D 5 years:**

- keep records and other supporting documents to prove the proper implementation of the action (proper implementation of the work and/or achievement of the results as described in Annex 1) in line with the accepted standards in the respective field (if any);
- beneficiaries do not need to keep specific records on the actual costs incurred. So, there is no contractual obligation to keep financial records for the project

CHECKS, REVIEWS AND AUDITS (5 years)

- As there is no financial reporting, there are no financial checks, reviews or audits related to actual costs and the resources used
- Controls can focus on the proper implementation of the work plan (of the activities) and on non-financial obligations. This includes compliance with rules on intellectual property, ethics and integrity, visibility of EU funding, etc.

PAYMENTS

EUROPEAN COMMISSION

80% PRE-FINANCING ; 20% BALANCE PAMENT (after approval of final report)

CONSORTIUM AGREEMENT – payment to partners

40 % of prefinancing of the foreseen partner's grant

30 % further prefinancing – month 12

10 % further prefinancing – month 18

Balance payment will be paid after the Granting Authority approves the completion of WPs and confirms full Lump sum contributions (who-did-what is important)

COMMUNICATION, DISSEMINATION AND VISIBILITY (GA Art. 17)

- COMMUNICATION: the beneficiaries must promote the action and its results by providing targeted information to multiple audiences (including media and the public) in a strategic, coherent and effective manner

- VISIBILITY: European flag and funding statement
- All comunication activities, information material, project products etc. must acknowledge EU support and display the European flag (emblem) and funding statement (can be translated into local languages, where appropriate)

LINK: https://ec.europa.eu/info/funding-tenders/managing-your-project/communicating-and-raising-eu-visibility_en

Quality of information – Disclaimer
(GA Art. 17.3)

- Any communication or dissemination activity related to the action must use factually accurate information
- Moreover, it must indicate the following disclaimer (translated into local languages, where approriate):

„Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union. Neither the European Union nor the granting authority can be held responsible for them.“

At the end: WELCOME TO FAIR-IN-DEBT PROJECT

- IMPORTANCE OF TEAM WORK
- PLEASE, NOMINATE A CONTACT PERSON
- ACTIVE COMMUNICATION AMONG PARTNERS
- ATTENTION TO THE QUALITY OF RESULTS
- ACTIVE COMMUNICATION ABOUT PROJECT AND VISIBILITY
- FOLLOW THE PROJECT IMPLEMENTATION ON **EU PORTAL** (deliverables, timing, budget info, project documents, partner's teams…)
- **https://ec.europa.eu/info/funding-tenders/opportunities/portal/screen/home**

FAIR-IN-DEBT – Maribor team

COORDINATOR: Prof. Dr. Vesna RIJAVEC; vesna.rijavec@um.si
COORDINATOR: Prof. Dr. Tjaša IVANC;tjasa.ivanc@um.si
MANAGEMENT BOARD ASSISTANT: Matej ROŽMARIN; matej.rozmarin@um.si
ADMINISTRATIVE AND FINANCIAL ISSUES: Jasmina KLOJČNIK; jasmina.klojcnik@um.si

Item 4:

14.00 Traveling with cable car from the front of the hotel Habakuk to the top of Pohorje, where the expert meeting will be concluded

14.30-15.30 Lunch (Wellness Spa Hotel Bolfenk)

15.30-18.00 Working Session

The formal program of the expert meeting concluded with a cable car transfer from the front of Hotel Habakuk to the summit of Pohorje. The ascent offered not only a scenic experience but also an opportunity for participants to continue their exchanges in a more relaxed and collegial atmosphere, strengthening the spirit of cooperation that marked the two-day event.

At the Wellness Spa Hotel Bolfenk, a continuation of the working session was held. This meeting served as a structured reflection on the research questions, drafting of the research questionnaire, expected impact, specific deliverables, and future meetings. Participants revisited the key conceptual and practical questions surrounding cross-border enforcement of out-of-court titles, identified priority research areas, and clarified methodological approaches for the comparative phase of the project, especially the drafting and conducting of the research survey. Particular emphasis was placed on coordinating timelines, allocating responsibilities across work packages, and ensuring coherence among doctrinal research, empirical findings, and the project's digitalization and AI components.

The session also included forward-looking planning of dissemination and capacity-building activities, as well as discussion of potential synergies with parallel European and international initiatives in the field of judicial cooperation.

The meeting concluded with informal discussions about upcoming social events, allowing experts to engage more freely with substantive project themes, explore innovative perspectives, and strengthen professional networks. These exchanges helped consolidate a shared vision for the FAIR-IN-DEBT project and foster a collaborative environment for its successful implementation over the next two years.

------------ End of the official programme -----------------